

## **RELATIONS SERVICES AGREEMENT: 2015-01**

### **1. PARTIES**

This AGREEMENT is between the OLRGC and STRATA.

### **2. DEFINITIONS**

As used in this AGREEMENT:

- 2.1 “AGREEMENT” means this “RELATIONS SERVICES AGREEMENT: 2015-01” between the OLRGC and STRATA.
- 2.2 “COMMISSION” means the Commission for the Stewardship of Public Lands, created in 2014 General Session H.B. 151 (Laws of Utah, Chapter 319, Page 1587), attached to the RFP as Attachment C.
- 2.3 “DAVILLIER” means the Davillier Law Group, LLC.
- 2.4 “LEGAL CONSULTING SERVICES” means the following services provided by DAVILLIER to the COMMISSION and the LEGISLATURE under the direction of, and in cooperation and communication with, the LEGISLATIVE GENERAL COUNSEL and the chairs of the COMMISSION, including, but not limited to:
  - 2.4.1 researching and consulting on alternative legal theories that the State of Utah may use in court to obtain ownership and control of PUBLIC LANDS;
  - 2.4.2 making recommendations and drafting a legal brief on legal strategies (taking into account cost and other factors) that the State of Utah may use to obtain ownership and control of PUBLIC LANDS;
  - 2.4.3 identifying potential legal counsel and expert witnesses that could be used in an action by the State of Utah to obtain ownership and control of PUBLIC LANDS; and
  - 2.4.4 providing all support staff necessary in relation to providing the legal consulting services described in this Section 2.4 of this AGREEMENT.
- 2.5 “LEGISLATIVE GENERAL COUNSEL” means the general counsel to the Utah State Legislature or the general counsel’s designee.
- 2.6 "LEGISLATURE" means: the Utah State Legislature; the Utah House of Representatives; the Utah Senate; the members, staff, staff offices, and employees of the Utah State Legislature, the Utah House of Representatives, and the Utah Senate; and all committees, commissions, task forces, work groups or other groups within the Utah State Legislature.

- 2.7 "OLRGC" means the Office of Legislative Research and General Counsel, a staff office of the Utah State Legislature.
- 2.8 "PUBLIC LANDS" has the same meaning as that term is defined in Utah Code Subsection 63L-6-102(3).
- 2.9 "RELATIONS SERVICES" means the following services provided to the COMMISSION and the LEGISLATURE under the direction of the COMMISSION and in cooperation and communication with the LEGISLATIVE GENERAL COUNSEL:
- 2.9.1 assisting the COMMISSION in forming coalitions with other states to obtain ownership and control of PUBLIC LANDS through legal action;
  - 2.9.2 developing public relations strategy and providing public relations and public communications advice and services in relation to the work of the COMMISSION; and
  - 2.9.3 providing all support staff necessary in relation to providing the services described in this Section 2.9 of this AGREEMENT.
- 2.10 "RESPONSE" means the response by STRATA to the RFP, including the initial response, the best and final offer, the cost document, and the certificate of liability insurance, all of which are attached as Appendix 2.
- 2.11 "RFP" means the request for proposals, issued by the OLRGC, for "Legal Consulting Services and Relations Services Relating to Obtaining Certain Public Lands from the Federal Government, RFP No. 2015-01," and all addenda thereto, attached as Appendix 1.
- 2.12 "STRATA" means Strata Policy, a 501(c)(3) organization, located in Logan Utah, including Troy Oldham, Tarah Reeves, Dr. Randy Simmons, Dr. Ryan Yonk, Ken Sim, and others designated or employed by this 501(c)(3) organization.

### 3. DUTIES OF STRATA

- 3.1 STRATA will provide RELATIONS SERVICES to the COMMISSION, of the type described in the RESPONSE, under the direction of the COMMISSION and in cooperation and communication with the LEGISLATIVE GENERAL COUNSEL and DAVILLIER. The lead point of contact assigned by STRATA to provide the RELATIONS SERVICES is Troy Oldham. Mr. Oldham will be assisted by the officers and employees of STRATA. STRATA is solely responsible to the OLRGC and the COMMISSION to ensure that the RELATIONS SERVICES are provided by STRATA in accordance with this AGREEMENT. STRATA will not conduct any RELATIONS SERVICES until after:

3.1.1 STRATA presents a RELATIONS SERVICES plan to the chairs of the COMMISSION and receives approval, from the chairs of the COMMISSION, to conduct the plan; and

3.1.2 STRATA and the chairs of the COMMISSION agree to a written scope of work document detailing the work that will be performed by STRATA.

3.2 The COMMISSION and the OLRGC are prohibited by Utah law from expending public funds to contract with a person to communicate with legislators or the governor for the purpose of influencing the passage, defeat, amendment, or postponement of a legislative action or an executive action (Utah Code Section 63J-1-210). STRATA will ensure that the STRATA does not engage in conduct under this AGREEMENT that constitutes a violation of Utah Code Section 63J-1-210.

3.3 Each individual who provides RELATIONS SERVICES under this AGREEMENT on behalf of STRATA shall provide the OLRGC with a signed statement that all information received, or of which the individual becomes aware, in relation to the RFP or this AGREEMENT, is confidential and that the individual will not, without permission from the COMMISSION, the chairs of the COMMISSION, or the LEGISLATIVE GENERAL COUNSEL, disclose the information to anyone other than to DAVILLIER, the COMMISSION, the chairs of the COMMISSION, or the LEGISLATIVE GENERAL COUNSEL. The signed statement shall be binding during the term of this AGREEMENT, during any extension of this AGREEMENT, and after termination of this AGREEMENT, in perpetuity.

3.4 STRATA shall cooperate in good faith with DAVILIER and each individual and organization that provides RELATIONS SERVICES under DAVILLIER in the provision of RELATIONS SERVICES by STRATA, as directed by the COMMISSION or the chairs of the COMMISSION.

#### 4. FEES AND EXPENSES

4.1 In exchange for the provision of RELATIONS SERVICES by STRATA, the OLRGC shall pay STRATA as follows:

##### 4.1.1 HOURLY RATES

STRATA shall inform the OLRGC, in writing, of the hourly rate normally charged by each individual not specified below who will perform RELATIONS SERVICES work that will billed to the OLRGC. STRATA shall provide that information, and obtain approval from the chairs of the COMMISSION, before that individual performs RELATIONS SERVICES.

4.1.2 Lead provider of RELATIONS SERVICES:

Troy Oldham	\$150 per hour
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4.1.3 Principal providers of RELATIONS SERVICES

Tarah Reeves	\$150 per hour
Dr. Randy Simmons	\$150 per hour
Dr. Ryan Yonk	\$150 per hour
Ken Sim	\$150 per hour

4.1.4 Other providers of RELATIONS SERVICES:

\$85 per hour (web development/design)

4.1.5 STRATA staff

\$75 per hour (public relations specialist, designer, video professional staff)

4.1.6 Other support staff and student associates:

\$25 per hour (public relations, social media, design, editing)

4.1.7 Secretaries and office administration:

\$35 per hour

4.1.8 Media training experts:

\$150 per hour

4.2 TRAVEL, FOOD, AND LODGING

STRATA will not bill the OLRGC for travel time, unless work relating to providing RELATIONS SERVICES is actually performed while traveling. STRATA will bill costs for flights at standard, coach class rates. STRATA will bill for reasonable and necessary food while traveling and will not seek reimbursement for alcohol, tobacco, medication, or luxury items. STRATA will bill for standard size and type hotel rooms. STRATA will retain, and make available to OLRGC upon request, receipts for travel, food, and lodging expenses.

4.3 STRATA will make a good faith effort to keep all charges, costs, and expenses for RELATIONS SERVICES as low as possible, while fully providing high quality RELATIONS SERVICES.

4.4 OTHER EXPENSES

Other expenses related to RELATIONS SERVICES are subject to the provisions included in STRATA'S RESPONSE. However, costs for printing, copies, and booth and demonstrative exhibits shall be billed at cost. Large projects for printing, copies,

and booth and demonstrative exhibits shall be approved by the COMMISSION before the projects are commenced.

#### 4.5 BILLING

STRATA will provide the OLRGC with detailed billing for RELATIONS SERVICES on a monthly basis. The lead provider of RELATIONS SERVICES shall communicate with the chairs of the COMMISSION every two weeks to determine, and receive approval for, the maximum amount of fees and expenses chargeable to the OLRGC for RELATIONS SERVICES that will likely be incurred in the upcoming two-week period. If it appears that the responder will exceed the approved amount, the lead attorney shall communicate with the chairs of the COMMISSION to receive approval before exceeding the previously approved amount. The OLRGC will pay all reasonable fees and expenses that are approved according to this procedure. Approval given by the COMMISSION under this section does not constitute final approval of billing. Bills will be reviewed for accuracy before final approval is given or payment is made. The OLRGC will pay all approved invoices within 30 days after final approval by the OLRGC. Questions related to detailed billing shall be discussed with the lead provider of RELATIONS SERVICES or his designee.

#### 4.6 ENTIRE AMOUNT

The amount described in this Section 4 of this AGREEMENT is the entire amount for which STRATA will bill, and for which the OLRGC will be responsible to pay, for the RELATIONS SERVICES for the entire term of this AGREEMENT.

#### 4.7 SERVICES BILLED

STRATA will not provide, nor bill for, any services other than RELATIONS SERVICES. The RFP response includes a list of proposed RELATIONS SERVICES. The COMMISSION may not choose to utilize all of the RELATIONS SERVICES described in the list. STRATA will only provide the RELATIONS SERVICES expressly approved by the COMMISSION.

4.8 Except as otherwise expressly provided in this AGREEMENT, STRATA is solely responsible to pay for all expenses and costs of STRATA relating to this AGREEMENT. Additionally, STRATA is solely responsible to ensure that each officer, employee, agent, or subcontractor of STRATA are paid all salary, wages, payments, expenses, fees, taxes, costs, insurance, and benefits of any kind to which they are or may be entitled.

### 5. TERM OF AGREEMENT

5.1 This AGREEMENT will terminate on July 15, 2018. The OLRGC may, at the direction of the COMMISSION, extend this AGREEMENT beyond July 15, 2018, if needed.

5.2 The OLRGC may terminate this AGREEMENT earlier than July 15, 2018, if:

5.2.1 the OLRGC determines that the RELATIONS SERVICES are no longer needed; or

5.2.2 the OLRGC is not satisfied with STRATA or with the RELATIONS SERVICES provided by STRATA.

## 6. BREACH OF AGREEMENT

6.1 This AGREEMENT may be terminated for cause by STRATA in advance of July 15, 2018, if STRATA gives written notice to the LEGISLATIVE GENERAL COUNSEL of a breach by the OLRGC. STRATA shall include in the notice a description of the breach and shall provide the OLRGC with (30) thirty working days after notification to correct or cease the breach, after which, if the breach is not corrected or ceased, STRATA may terminate this AGREEMENT, in writing, for cause.

## 6.2 DEFAULT AND REMEDIES

If STRATA breaches this AGREEMENT, the OLRGC may do one or both of the following:

6.2.1 exercise any remedy provided by law; or

6.2.2 suspend STRATA from receiving future bid/proposal solicitations;

## 7. SURVIVAL OF TERMS

The following terms will survive termination of the AGREEMENT:

Sections 1, 2, 3.2.3, 6.2, 7, 8, 9, 10, 12-16, 18, and 20-26.

## 8. NATURE OF RELATIONSHIP

8.1 DAVILLIER'S attorneys and the other LEGAL CONSULTING SERVICES PROVIDERS' attorneys are attorneys for the COMMISSION, under the direction and control of the LEGISLATIVE GENERAL COUNSEL. These attorneys may, in conjunction with or under the direction of the LEGISLATIVE GENERAL COUNSEL, communicate with the chairs of the COMMISSION, the COMMISSION, one or more COMMISSION members, the president of the Senate, the speaker of the House, and other members or employees of the Utah Legislature designated by the LEGISLATIVE GENERAL COUNSEL regarding the LEGAL CONSULTING SERVICES. The LEGISLATIVE GENERAL COUNSEL, and certain attorneys employed by the OLRGC who are designated by the LEGISLATIVE GENERAL COUNSEL, shall be part of the legal team that provides legal services to the COMMISSION and the Utah Legislature. Thus, DAVILLIER'S attorneys and the other LEGAL CONSULTING SERVICES PROVIDERS' attorneys will communicate with the LEGISLATIVE GENERAL COUNSEL and other OLRGC attorneys designated by LEGISLATIVE GENERAL COUNSEL regarding the LEGAL CONSULTING SERVICES, including,

but not limited to, attorney/client communications and attorney work product. Because the RELATIONS SERVICES are related to the subject of the LEGAL CONSULTING SERVICES, there may be occasion where STRATA becomes aware of communications or other matters that are subject to the attorney/client privilege or that constitute attorney work product. STRATA will be considered part of the support staff of the legal team in relation to these communications and matters and will maintain the confidentiality of these communications and matters.

- 8.2 Except as expressly authorized by this AGREEMENT or by the LEGISLATIVE GENERAL COUNSEL, STRATA and its officers, employees, or agents are not authorized, expressly or by implication, to bind the LEGISLATURE, the State of Utah, or any member, office, officer, department, agent, official, or employee of the LEGISLATURE or the State of Utah to any agreement, settlement, liability, or understanding or to perform any act as agent for the LEGISLATURE, the State of Utah, or any member, office, officer, department, agent, official, or employee of the LEGISLATURE or the State of Utah.

## 9. ASSIGNMENT PROHIBITED

STRATA may not assign this AGREEMENT or any duty or benefit relating to this AGREEMENT without the prior written permission of the LEGISLATIVE GENERAL COUNSEL.

## 10. GOVERNING LAW

This AGREEMENT shall be construed in accordance with, and governed by, the laws of the State of Utah, without reference to principles governing choice or conflict of laws. The parties will submit to the jurisdiction of the courts of the State of Utah any dispute arising out of this AGREEMENT or the breach of this AGREEMENT. Venue shall be in Salt Lake City, Utah, in the Third Judicial District Court for Salt Lake County.

## 11. EQUAL OPPORTUNITY

STRATA will abide by the provisions of:

- 11.1 Titles VI and VII of the Civil Rights Act of 1964 (42 U.S.C. Sec. 2000e), which prohibit discrimination against any employee or applicant for employment or any applicant or recipient of services on the basis of race, religion, color, or national origin;
- 11.2 Executive Order 11246, as amended, which prohibits discrimination on the basis of sex;
- 11.3 45 C.F.R. 90, which prohibits discrimination on the basis of age;
- 11.4 Section 504 of the Rehabilitation Act of 1973 or the Americans with Disabilities Act of 1990, as applicable, which prohibit discrimination on the basis of disabilities; and

11.5 Utah's Executive Order, dated March 17, 1993, which prohibits sexual harassment in the workplace.

12. INCORPORATION OF PROVISIONS OF RFP AND RESPONSE TO RFP

The provisions of the RFP and the RESPONSE, are hereby incorporated into this AGREEMENT by reference. If any conflict exists between the RFP, the RESPONSE, and this AGREEMENT, the terms and conditions of the following shall prevail in the following order of preference:

12.1 this AGREEMENT;

12.2 the RFP;

12.3 the RESPONSE.

13. LAWS AND REGULATIONS

STRATA, and any and all hardware, software, supplies, services, equipment, and construction proposed or furnished under this AGREEMENT will comply fully with all applicable federal and state laws and regulations.

14. PATENTS, COPYRIGHTS, ETC.

STRATA releases, and will protect, indemnify, and hold harmless the LEGISLATURE from liability of any kind or nature relating to the use or provision, by STRATA of any copyrighted or un-copyrighted composition, secret process, patented or un-patented invention, article, or appliance furnished or used in the performance of this AGREEMENT.

15. RECORDS ADMINISTRATION:

STRATA will maintain, or supervise the maintenance of, all records necessary to properly account for the payments made by the OLRGC under this AGREEMENT for fees and expenses authorized by this AGREEMENT. These records will be retained by STRATA for at least four years after this AGREEMENT terminates. STRATA agrees, at the request of the OLRGC, to allow auditors and legislative staff access to all the records relating to this AGREEMENT, for audit, for inspection, and for the monitoring of services. Such access will be during normal business hours, or by appointment.

16. CONFLICT OF INTEREST

STRATA certifies that has not offered or given any gift or compensation prohibited by the laws of the State of Utah to any officer or employee of the LEGISLATURE to secure favorable treatment with respect to being awarded this AGREEMENT.

17. DEBARMENT

STRATA certifies that neither STRATA, nor any STRATA'S principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this AGREEMENT by any governmental department or agency.

STRATA will notify the LEGISLATIVE GENERAL COUNSEL within 30 days if any of these are debarred by any governmental entity during the term of this AGREEMENT.

18. INDEMNITY CLAUSE

STRATA releases, protects, defends, indemnifies, and holds harmless LEGISLATURE from and against any damage, cost, or liability, including reasonable attorney fees for any and all injuries to persons or property, or claims for money damages, arising from acts or omissions of STRATA, or any of their officers, employees, or agents.

19. NON-APPROPRIATION OF FUNDS

Notwithstanding any other provision of this AGREEMENT, STRATA acknowledges that LEGISLATURE cannot contract for the payment of funds not yet appropriated. The OLRGC may, without penalty or liability of any kind, terminate this AGREEMENT by providing 30 days' written notice to STRATA that this AGREEMENT is terminated due to the non-appropriation of funds. If this AGREEMENT is terminated under this provision, the OLRGC will pay all amounts due to STRATA through the date of termination and will not be liable for any future commitments, penalties, or damages of any kind.

20. FORCE MAJEURE

Neither party to this AGREEMENT will be held responsible for delay or default caused by fire, riot, acts of God, and/or war that is beyond that party's reasonable control. The OLRGC may terminate this AGREEMENT after determining that such delay or default will prevent successful performance of this AGREEMENT.

21. MERGER

This AGREEMENT constitutes the entire agreement between the parties with respect to the subject matter contained in this AGREEMENT. There are no covenants, terms, or conditions, express or implied, written or unwritten, that govern the subject matter of this AGREEMENT, except as expressly described in this AGREEMENT. This AGREEMENT supersedes all prior agreements between the parties relating to all or part of the subject matter contained in this AGREEMENT.

22. MODIFICATION OF AGREEMENT

This AGREEMENT may be modified only in a written document signed by the director of the OLRGC (or such other person certified as having the authority to bind the OLRGC), on behalf of the OLRGC, and Troy Oldham (or such other person certified as having the authority to bind STRATA), on behalf of STRATA.

23. AUTHORITY TO BIND

STRATA and the person who signs this AGREEMENT on behalf of STRATA represent that the person who signs this AGREEMENT has the authority to bind STRATA, and does, by signing this AGREEMENT, bind STRATA to the terms and conditions of this AGREEMENT.

24. PUBLIC INFORMATION

This AGREEMENT and the documents relating to this AGREEMENT are subject to release in accordance with Utah Code, Title 63G, Chapter 2, Government Records Access and Management Act.

25. SEVERABILITY

A declaration by any court, or any other binding legal source, that any provision of this AGREEMENT is illegal and void does not affect the legality and enforceability of any other provision of this AGREEMENT, unless the provisions are mutually dependent.

26. COMMUNICATION WITH THE MEDIA AND OTHERS

Neither STRATA, nor their officers, employees, or agents, will communicate with the media, nor communicate on social media, nor on a website, nor to the public, in relation to the LEGAL CONSULTING SERVICES, the RELATIONS SERVICES, or the work of the COMMISSION, unless, prior to such communication, permission is given by LEGISLATIVE GENERAL COUNSEL, both chairs of the COMMISSION, or the COMMISSION, following review and discussion of the proposed communication with both DAVILLIER and STRATA.

Signed this \_\_\_\_ day of \_\_\_\_\_, 2015,

Signed this \_\_\_\_ day of \_\_\_\_\_, 2015,

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MICHAEL E. CHRISTENSEN, Director  
On behalf of the Utah Office of Legislative  
Research & General Counsel (OLRGC),  
a staff office of the Utah Legislature

\_\_\_\_\_  
Dr. Ryan Yonk  
Executive Director of STRATA  
On behalf of Strata Policy  
(STRATA)